

1 The Honorable Richard A. Jones
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 395 LAMPE, LLC, a Nevada limited
10 liability company,

Case No. 2:12-cv-01503-RAJ

11 Plaintiff/
12 Counterclaim Defendant

13 v.
14 PROPOSED ORDER GRANTING 395
15 LAMPE, LLC'S MOTION TO
16 DISMISS OR STAY

17 KAWISH, LLC, a Washington limited
18 liability company; and TIMOTHY L.
19 BLIXSETH and JANE DOE BLIXSETH,
20 husband and wife,

**NOTE ON MOTION CALENDAR:
OCTOBER 26, 2012**

ORAL ARGUMENT REQUESTED

21 Defendants/
22 Counterclaim Plaintiff/s/
23 Third-Party Plaintiff/s,
24 v.

25 WAYNE L. PRIM, an individual residing
26 in Nevada; THE BLACKSTONE
27 CORPORATION, a Washington
28 corporation; PRIM 1988 REVOCABLE
TRUST, a private trust; and OVERLOOK
PARTNERS, LLC, a Washington limited
liability company,

Third-Party Defendants.

PROPOSED ORDER GRANTING
MOTION TO DISMISS OR STAY
Case No. 2:12-cv-01503-RAJ

1 395 Lampe LLC's Motion to Dismiss or Stay the causes of action contained in the
2 Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint
3 came for hearing before the Honorable Richard A. Jones, United States District Court
4 Judge for the Western District of Washington

I. HEARING & RECORD

1.1 Date: The Court considered counsels' arguments on _____, 2012.

1.2 Appearances:

a. Plaintiff 395 Lampe, LLC appeared through its counsel of record:

Witherspoon Kelley;

b. Defendants Kawish, LLC and Timothy L. Blixseth appeared through their counsel of record: Brain Law Firm;

c. Third-Party Defendant Overlook Partners, LLC appeared through

d. Third Party Defendant appeared through

; and

e. None of the remaining Third-Party Defendants appeared.

1.3 Record : The Court considered the following pleadings:

a. 395 Lampe LLC's Motion to Dismiss or Stay:

b. The Declaration of Austin K. Sweet in Support of Motion to Dismiss;

_____, and _____

d. _____

II. FINDINGS OF FACT

The Court hereby FINDS that:

1. Kawish, LLC, and Timothy L. Blixseth contractually agreed to litigate any disputes over the Loan Documents under Nevada law and in Washoe County or Douglas County, Nevada;

2. A lawsuit which is capable of resolving the dispute between Timothy L. Blixseth and Wayne L. Prim, and their respective entities, is already pending in the State of Nevada;

3. The claims raised in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint do not arise out of the transaction or occurrence giving rise to this judicial foreclosure;

4. The Seventh Cause of Action contained in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint is currently moot due to the stay imposed by 11 USC 362:

5. The claims raised in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint against Overlook Partners, LLC are the subject of a lawsuit pending in Montana:

THE COURT, THEREFORE, ORDERS that:

1. The first six causes of action alleged in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint are dismissed without prejudice to be litigated in the appropriate state or federal court located in the State of Nevada;

2. The seventh cause of action alleged in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint is dismissed as moot;

3. The eighth and ninth causes of action alleged in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint are dismissed without prejudice to be litigated as appropriate in the Montana Fifth Judicial District Court, Madison County, Case No. DV-29-2007-5, or, if inappropriate, to be re-filed after the conclusion of that case.

DONE this day of September, 2012.

Honorable Richard A. Jones
United States District Court Judge

Presented by:

WITHERSPOON • KELLEY

By s/Jody M McCormick

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PROPOSED ORDER GRANTING
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of September, 2012,

1. I caused to be electronically filed the foregoing PROPOSED ORDER GRANTING 395 LAMPE, LLC'S MOTION TO DISMISS OR STAY with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: **Paul E. Brain, Attorney for Plaintiff, Thomas Scott Linde, Attorney for Blackstone Corporation**
2. I hereby certify that I have mailed by United States Postal Service the foregoing to the following non-CM/ECF participants at the address listed below: **None**.
3. I hereby certify that I have mailed by United States Postal Service the document to the following CM/ECF participants at the address listed below: **None**.
4. I hereby certify that I have hand-delivered the document to the following participants at the addresses listed below: **None**.

s/ Jody M. McCormick

Jody M. McCormick, WSBA No. 26351
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